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In the High Court of Punjab & Haryana at Chandigarh.

F.A.O. No.2397 of 2004.

Date of decision : 2.8.2007.

Gaman Lal ... Appellant.

vs

General Public and another .... Respondents.

Before : Hon'ble Mr. Justice R.S.Madan.

Present: Mr.Sameer Sachdev,Advocate,for the appellant.
Mr.Raman Gaur, Advocate,for respondent no.2.

Judgment.

R.S.Madan, J.

By filing this appeal, Gaman Lal appellant has challenged a part of the judgment dated 3.11.2003, passed by the learned District Judge, Ambala, wherein, while granting a probate of Will dated 29.10.1995 executed by his father Harminder Lal in favour of Gaman Lal in respect of the plot in question, a condition was also imposed by the court that the appellant would deposit an amount of Rs.10 lacs in fixed deposits in the name of his brother Raman Lal who is mentally retarded and it was further directed that amount will not be withdrawn by the appellant except with the prior permission of the competent court.

Brief facts of the case are that Harminder Lal was the owner of Plot no.17, Sector-1, Urban Estate, Jail Land, Ambala City. He left behind two sons and four daughters, namely, Gaman Lal, Raman Lal, Smt. Sudesh, Smt. Kamlesh Kanta, Smt. Suman Kumari, and Smt. Guldi. He executed a Will dated 29.10.1995 in respect of the aforesaid plot in favour of his son

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Gaman Lal. On the basis of the said Will, the appellant applied for transfer of the aforesaid plot in his name but the HUDA did not transfer the said plot in his exclusive name. He, thereafter, filed a petition in which he sought a probate of the Will dated 29.10.1995 in his favour in respect of the aforesaid plot.

All the daughters of Harminder Lal filed a joint written statement admitting the correctness and genuineness of the Will. Written statement on behalf of Raman Lal, who is mentally retarded, was filed by his guardian ad litem Sudesh Kohli, and admitted the correctness of the Will.

The petition was contested by the HUDA- respondent no.2 only. It was pleaded that the appellant wanted to grab the property of his younger brother Raman Lal, who is of unsound mind and denied the execution of the Will.

On the pleadings of the parties, the following issues were framed:-

1) Whether Harminder Lal validly executed a Will in favour of the petitioner, as alleged. If so, its effect? OPP.
2) Relief.

After evaluating the evidence led by the parties, the learned District Judge granted a probate of Will executed by Harminder Lal in favour of the appellant in respect of the plot in question subject to his depositing of Rs.10 lacs in fixed deposits in the name of his brother Raman Lal and it was further ordered that the amount so deposited will not be withdrawn without the prior permission of competent court.

I have heard the learned counsel for the parties and have also

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gone through the judgment. It is admitted by the appellant that his brother Raman Lal is mentally weak. The genuineness of the Will is not disputed by the parties. The learned District Judge was justified in granting the probate subject to the condition that the appellant would deposit Rs.10 lacs in fixed deposits in the name of his brother Raman Lal. The learned District Judge has protected the interest of Raman Lal who is mentally retarded.

In view of the mental condition of Raman Lal, I find that the impugned judgment dated 3.11.2003 passed by the learned District Judge, Ambala, is a well reasoned, which does not call for any interference by this court in this appeal.

No merit. Dismissed.

2.8.2007. (R.S.Madan)
vs. Judge.